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Arizona Corporation Commission

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BEFORE THE ARIZONA CORPORATION COMMISSION

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CHAIRMAN

COMMISSIONER

MARC SPITZER

COMMISSIONER

AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF
H2O, INC., FOR AN EXTENSION OF ITS
EXISTING CERTIFICATE OF CONVENIENCE
AND NECESSITY.

DOCKET NO. W-02234A-00-0371

THE APPLICATION OF JOHNSON UTILITIES,
L.L.C., DBA JOHNSON UTILITIES COMPANY
FOR AN EXTENSION FOR ITS CERTIFICATE
OF CONVENIENCE AND NECESSITY TO
PROVIDE WATER AND WASTEWATER
SERVICE TO THE PUBLIC IN THE DESCRIBED
AREA IN PINAL COUNTY, ARIZONA.

DOCKET NO. WS-02987A-99-0583

THE APPLICATION OF JOHNSON UTILITIES,
L.L.C., DBA JOHNSON UTILITIES COMPANY
FOR AN EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
WATER AND WASTEWATER SERVICE TO THE
PUBLIC IN THE DESCRIBED AREA IN PINAL
COUNTY, ARIZONA.

DOCKET NO. WS-02987A-00-0618

IN THE MATTER OF THE APPLICATION OF
DIVERSIFIED WATER UTILITIES, INC. TO
EXTEND ITS CERTIFICATE OF CONVENIENCE
AND NECESSITY.

DOCKET NO. W-02859A-00-0774

IN THE MATTER OF THE APPLICATION OF
QUEEN CREEK WATER COMPANY TO
EXTEND ITS CERTIFICATE OF CONVENIENCE
AND NECESSITY.

DOCKET NO. W-01395A-00-0784

PROCEDURAL ORDER**BY THE COMMISSION:**

On October 16, 2000, the Arizona Corporation Commission ("Commission"), with respect to the conduct of the above-captioned proceedings, issued a Procedural Order which set forth a schedule of filing dates with respect to the proceedings on the basis of the fact that it is a contested proceeding.

On December 6, 2000, Johnson Utilities L.L.C. dba Johnson Utilities Company ("JUC") filed an application to bifurcate and expedite the hearing on its application for extension of its Certificate of Convenience and Necessity ("Certificate") to provide wastewater treatment service from the

1 instant proceedings which primarily involve applications for extensions to provide water service.

2 On December 14, 2000, Southwest Properties, Inc. ("SPI") and Vistoso Partners, L.L.C.
3 ("Vistoso") filed applications for intervention in the above-captioned proceedings. Since copies of
4 SPI's and Vistoso's applications apparently were not mailed to all previous parties in the
5 proceedings, the Commission, by Procedural Order, mailed copies of them to all parties of record on
6 January 5, 2001 and gave the parties until January 18, 2001 in which to file any response or objection
7 to these intervention requests. There have been no objections filed, and intervention should be
8 granted to SPI and Vistoso.

9 On December 14, 2000, Sweetwater Creek Utilities, Inc. ("Sweetwater") an Arizona public
10 service corporation engaged in providing wastewater treatment service in the vicinity of the City of
11 Yuma, Arizona filed an application to intervene with respect to certain sections of land which are
12 included in JUC's application for an extension of its Certificate herein. Sweetwater, in its application
13 to intervene, alleges that it had been approached by property owners in certain of the contested areas
14 to provide sewer service and would be filing an application for a Certificate to do this in the near
15 future.

16 On December 18, 2000, the Utilities Division ("Staff") filed a response to JUC's request to
17 bifurcate that portion of the proceeding with respect to its request for an extension of its wastewater
18 treatment service. While Staff did not oppose bifurcation, it did not favor an expedited hearing
19 schedule which would require an earlier filing date for the Staff Report than January 9, 2001.

20 On December 21, 2000, Diversified Water Utilities, Inc. ("Diversified") filed a response to
21 JUC's request with respect to bifurcation of the wastewater treatment portion of its applications
22 herein.

23 On December 22, 2000, JUC filed an objection to Sweetwater's application for intervention
24 pointing out that Sweetwater had no plant in service within 200 miles of the area involved in these
25 proceedings. Sweetwater did not file a reply and has not filed an application for a Certificate.
26 Accordingly, Sweetwater's request for intervention should be denied.

27 On January 24, 2001, H2O, Inc. ("H2O"), JUC, Queen Creek Water Company ("QWC")
28 (collectively "HJQ") filed what was captioned "Notice of Filing Settlement Agreement and Joint

1 Application for Approval Thereof" ("Settlement Agreement"). Therein, HJQ indicated that they had
2 reached a settlement of a number of issues which had previously been contested between them in the
3 above-captioned proceedings. HJQ stated that the Settlement Agreement embodied their resolution
4 of certain contested issues. HJQ also represented that certain land owners and customers who are
5 served by the fourth public service corporation herein, Diversified, have filed a petition with Pinal
6 County ("County") requesting that the County Board of Supervisors ("County Board") authorize the
7 formation of a water improvement district "that will condemn, purchase or otherwise acquire the
8 water utility facilities of Diversified and become the water provider in what is now Diversified's
9 certificated service area." HJQ believe that, if the County Board approves the formation of the
10 District that will encompass Diversified's active service area, its application herein will be rendered
11 moot.¹

12 In order to facilitate the conduct of the hearing in these proceedings previously scheduled for
13 March 15, 2001, it will be necessary for additional filing dates to be established to allow for the
14 treatment of the proposed Settlement Agreement in the hearing by its proponents and any other
15 parties who oppose it.

16 Under the circumstances, previously ordered dates of filing of any testimony and associated
17 exhibits should remain in effect for any Applicants, Intervenors and Staff if it is deemed necessary
18 that they be filed by that party. However, any party to the proceeding that wishes to file a response to
19 the Settlement Agreement filed by HJQ should be filed by February 8, 2001. Any replies by HJQ to
20 the responses by other parties should be filed by February 22, 2001. As with other objections to any
21 testimony or exhibits which have been prefiled as of March 6, 2001, these shall be made not later
22 than noon on March 12, 2001. Lastly, the dates and times of the pre-hearing conference and hearing
23 on the proceedings shall remain as previously scheduled by the Procedural Order dated October 16,
24 2000.

25 IT IS THEREFORE ORDERED that the application by Johnson Utilities Company to
26 bifurcate and expedite the above-captioned proceedings with respect to its application for an

27 ¹ According to HJQ, only five of Diversified's nine certificated sections of land are presently served by
28 Diversified. The remaining four sections are owned by the State of Arizona which cannot petition the County to form an
improvement district. HJQ cite A.R.S. § 48-902 and Attorney General Opinion 71-33 in support of this argument.

1 extension of its Certificate of Convenience and Necessity for wastewater service be, and is hereby,
2 denied.

3 IT IS FURTHER ORDERED that the applications for intervention filed by Southwest
4 Properties, Inc. and Vistoso Partners, L.L.C. be, and are hereby, granted.

5 IT IS FURTHER ORDERED that the application to intervene of Sweetwater Creek Utility,
6 Inc. be, and is hereby, denied.


7 IT IS FURTHER ORDERED that responses to the Settlement Agreement filed by H2O, Inc.,
8 Johnson Utilities Company and Queen Creek Water Company shall be filed not later than February 8,
9 2001.

10 IT IS FURTHER ORDERED that any replies to the aforementioned responses shall be filed
11 not later than February 22, 2001.

12 IT IS FURTHER ORDERED that any objections to testimony, exhibits or matters relating to
13 the proposed Settlement Agreement shall be filed not later than noon March 12, 2001.

14 IT IS FURTHER ORDERED that all previous orders of the Commission with respect to the
15 conduct of this proceeding shall remain in effect including those scheduling the pre-hearing
16 conference and the date of hearing on these proceedings.

17 DATED this 29th day of January, 2001.

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20 
21 MARC E. STERN
22 ADMINISTRATIVE LAW JUDGE

23 Copies of the foregoing mailed/delivered
24 this 29 day of January, 2001 to:

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By: 

Brenda Sanchez
Secretary to Marc E. Stern